

Attorney Docket No.: 50129/00202

**In the Drawings:**

The attached sheet of drawings includes changes to Fig. 3c. This sheet replaces the original sheet including Figs. 3a-c. In Fig. 3c, the reference numeral 117 has been removed. An annotated sheet has been attached to show the changes made to Fig. 3c including an annotation stating the removal of the reference numeral 117.

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**REMARKS****RECEIVED  
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DEC 29 2006****I. INTRODUCTION**

Claims 1-2, 5, 7, 8, 10, 14, 17, 18, 20 and 22-23 have been amended. Claims 6, 9, and 16 have been canceled. No new matter has been added. Support for the amendments may be found throughout the specification. Thus, claims 1-5, 7, 8, 10-15, and 17-23 are now pending in the present application. It is respectfully submitted that based on the above amendments and the following remarks that all of the presently pending claims are in condition for allowance.

**II. THE OBJECTION TO THE DRAWINGS SHOULD BE WITHDRAWN**

The Examiner objected to the drawings because the drawings included a reference numeral that was not mentioned in the description. Specifically, Fig. 3a includes a reference numeral 117 that was not described in the specification of the present application. Fig. 3a has been amended to remove the reference numeral 117. A replacement sheet has been provided to replace Figs. 3a-3c. An annotated sheet has also been provided to show the changes made to Fig. 3c including an annotation stating the deletion of reference numeral 117. Thus, it is respectfully requested that the Examiner should withdraw the objection to the drawings.

**III. THE 35 U.S.C. § 112 REJECTION SHOULD BE WITHDRAWN**

The Examiner rejected claims 5 and 18 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Examiner states that claim 5 contains a recitation that is unclear since a preposition object is missing. Claim 5 has been amended to recite "so that selected ones of the *electrodes* are energized." The Examiner also states that claim 18 includes language that was not clearly defined in the specification. Claim 18 has been amended to recite that "the sheath is a bio-compatible material." Thus, it is respectfully requested that the Examiner should withdraw the 35 U.S.C. § 112 rejection of claims 5 and 18.

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**III. THE 35 U.S.C. § 102(e) REJECTION SHOULD BE WITHDRAWN**

The Examiner has rejected claims 1-10 and 12-23 under 35 U.S.C. § 102(e) as unpatentable over U.S. Pat. Pub. No. 2003/0097167 (Friedman). (See 9/12/06 Office Action, pp. 4-6).

Friedman discloses an esophageal probe for transesophageal cardiac stimulation. An electrode containing membrane modifies a transesophageal echocardiogram probe for transesophageal cardiac stimulation. (See Friedman, abstract). Specifically, the electrodes disclosed in Friedman comprise a silicone sheet subassembly containing electrical contacts and conductors. (See Id., p. 3, ¶[0032]). The silicone sheet subassembly is subsequently wrapped around a distal end of the probe. (See Id.). Electrode rings are clamped onto the probe over the silicone sheet subassembly where the electrical contacts are located to generate the cardiac stimulation current. (See Id.).

Claim 1 has been amended to recite “a flexible sheath sized to be received one of permanently and removably over the probe, the sheath including an electrode so that the electrode, when in an operative position, contacts the esophagus to deliver a cardioversion current to the heart.” Support for this amendment may be found throughout the specification. For example, a “sheath is slipped over the scope portion 205 of Fig. 6a to position electrodes thereof for cardioversion.” (See Specification, p. 12, ¶[0029]; Fig. 6a-c). Furthermore, “the electrode assembly being coupled to a power source for supplying a cardioversion current to a heart via tissue located adjacent [to the heart].” (See Specification, p. 2, ¶[0005]).

This recitation of claim 1 requires that the electrodes and the sheath become a single unit that is subsequently received by the probe. (See Id., pp. 12-14, ¶[0029]-[0033]; Figs. 6a-c). Furthermore, the electrodes are strategically placed to contact the esophagus for delivering the cardioversion current to the heart, thereby allowing a controlled delivery of cardioversion current. In contrast, the probe of Friedman includes an electrode assembly that utilizes electrode rings to be placed over the silicone sheet subassembly. The electrode rings of Friedman provide the cardioversion current because it is the electrode rings that contact the esophagus.

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Furthermore, the electrode rings in Friedman are independent to orientation. That is, irregardless to how the probe is oriented, the electrode ring may contact the esophagus. In contrast, the present application places the electrodes strategically that is dependent on orientation (*i.e.*, "in an operative position," as recited in claim 1) so that a controlled cardioversion current is delivered. Friedman's utilization of the electrode rings means that the contacts are not strategically placed. (See Friedman, Figs. 2a, d). That is, the only concern for the contacts of Friedman is a spacing along the longitudinal axis. Thus, the placement of the contacts of Friedman is independent to the resultant location on the surface area of the silicone sheet subassembly. In contrast, as discussed above, the electrodes of the present application are strategically placed (*i.e.*, dependent on resultant location on the surface area of the sheath).

Thus, it is respectfully submitted that Friedman does not disclose or suggest "a flexible sheath sized to be received one of permanently and removably over the probe, the sheath including an electrode so that the electrode, when in an operative position, contacts the esophagus to deliver a cardioversion current to the heart," as recited in claim 1. Accordingly, it is respectfully requested that the Examiner should withdraw the 35 U.S.C. § 102(e) rejection of claim 1. Because claims 2-5, 7-8, 10, and 12-13 depend from and, therefore, include the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claim 14 recites a "cardioversion mechanism comprising a flexible sheath sized to be received one of permanently and removably over a transesophageal echocardiography probe, the flexible sheath including an electrode assembly, wherein, when the sheath is received by the echocardiography probe, the electrodes of the of the electrode assembly are located at a predetermined location with respect to the echocardiography probe, the electrode assembly being coupled to a power source for supplying a cardioversion current to a heart by contacting tissue located adjacent thereto when the echocardiography probe is in an operative position within an esophagus of a patient." Thus, it is respectfully submitted that this claims is also allowable and the Examiner should withdraw 35 U.S.C. § 102(e) rejection of claim 14. Because claims 15 and 17-19 depend from and, therefore, include the limitations of claim 14, it is respectfully submitted that these claims are also allowable.

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Claim 20 recites a “a flexible sheath sized to be received one of permanently and removably over the probe, the sheath including at least one cardioversion electrode” and “applying electric current to the at least one electrode to supply a cardioversion current to the heart by contacting the electrode to the esophagus when the echocardiography does not contraindicate cardioversion.” Thus, it is respectfully submitted that this claims is also allowable and the Examiner should withdraw 35 U.S.C. § 102(e) rejection of claim 20. Because claims 21-23 depend from and, therefore, include the limitations of claim 20, it is respectfully submitted that these claims are also allowable.

**IV. THE 35 U.S.C. § 103(a) REJECTION SHOULD BE WITHDRAWN**

The Examiner has rejected claim 11 under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. Pub. No. 2003/0097167 (Friedman). (See 9/12/06 Office Action, p. 6). Friedman was discussed above.

As discussed above, Friedman does not disclose or suggest “a flexible sheath sized to be received one of permanently and removably over the probe, the sheath including an electrode so that the electrode, when in an operative position, contacts the esophagus to deliver a cardioversion current to the heart,” as recited in claim 1. Because claim 11 depends from and, therefore, includes all the limitations of claim 1, it is respectfully submitted that this claim is also allowable and the Examiner should withdraw the 35 U.S.C. § 103(a) rejection of claim 11.

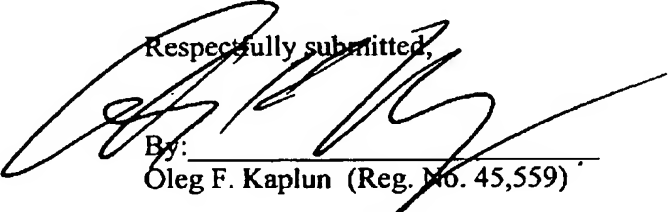
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CONCLUSION

In view of the above remarks, it is respectfully submitted that all the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

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Respectfully submitted,

  
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Annotated Sheet Showing Changes

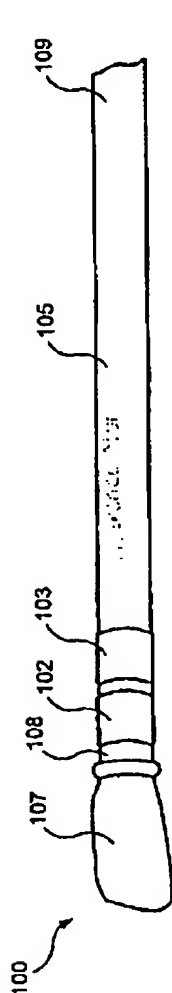


FIG. 3a

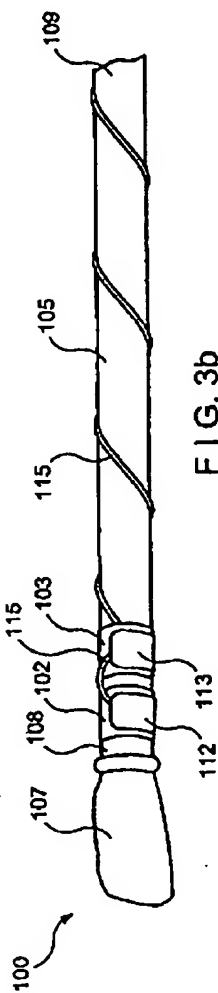


FIG. 3b

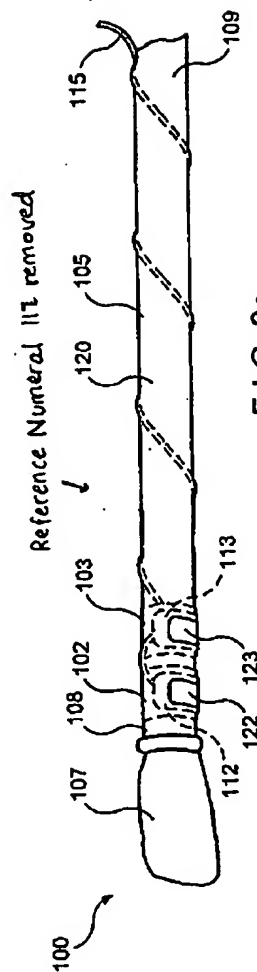


FIG. 3c